



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

June 10, 2003

Ms. Karen Saldana
Records Clerk
Saginaw Police Department
404 South Saginaw Boulevard
Saginaw, Texas 76179

OR2003-3984

Dear Ms. Saldana:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 182537.

The City of Saginaw Police Department (the "department") received a request for "the name or cell phone number and phone service provider of the individual or individuals" who made a particular 9-1-1 call. You claim that the phone number and address of the 9-1-1 caller is excepted from disclosure under section 552.108 of the Government Code and chapter 772 of the Health and Safety Code.¹ We note that section 552.101, rather than section 552.108, is the section of the Public Information Act that incorporates confidentiality provisions such as chapter 772. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished to a 9-1-1 district by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency

¹Because you do not seek to withhold the name of the 9-1-1 caller, we assume you have released it. If you have not, you must do so at this time. *See* Gov't Code § 552.301, .302.

communication district for a county with a population of more than 20,000. The submitted information contains an originating phone number that was provided to a 9-1-1 district by a 9-1-1 service supplier. If the 9-1-1 district is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the originating phone number of the 9-1-1 caller must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the 9-1-1 district is not subject to section 772.118, 772.218, or 772.318, the information must be released. The submitted document lists the identification of the cell phone service provider in the blank provided for address. Because this is not an address, it is not protected by chapter 772 and must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, reading "Jennifer E. Berry". The signature is fluid and cursive, with the first name "Jennifer" and last name "Berry" clearly legible.

Jennifer E. Berry
Assistant Attorney General
Open Records Division

JEB/sdk

Ref: ID# 182537

Enc: Submitted documents

c: Ms. Debbie Rhea
684 Chisolm Trail
Keller, Texas 76248
(w/o enclosures)